

# **EXHIBIT 1**

Lee P. Dore  
Project Manager  
Dore and Whittier Architects, Inc.  
1795 Williston Road, Suite 200  
South Burlington, VT 05403  
802-863-1428

**Expert Report**

*American Manufacturers Mutual Insurance Company vs. Town of North Brookfield*

**A. Expert's Qualifications**

A copy of my curriculum vitae is attached hereto as Exhibit A.

**B. Expert Testimony at Trial or Depositions within Past Four Years**

None.

**C. Publications and Presentations Authored Within Past Ten Years**

None.

**D. Terms of Engagement**

My compensation for this engagement is \$115 per hour for consultation and \$145 per hour for testimony.

**E. Materials Reviewed**

I reviewed documents in preparation for the completion of this report including, but not limited to: North Brookfield Project related correspondence, E.J. Sciaba Contracting Company, Inc. (EJS) project schedules, contract documents, project photos, meeting minutes, project schedules, Affidavit of Richard Anastasio in support of the opposition of American Manufacturers Mutual Insurance Company (AMMIC) to motion to require plaintiff to deposit funds with court.

I also reviewed materials from the Ralph C. Mahar Regional School project in Orange, MA including: project photos, project schedules, meeting minutes, contracts and misc. correspondence.

All specific information referenced as a part of my formed opinions are attached as Exhibits hereto.

## SCHEDULE DELAYS

During the preparation of this report I reviewed several project schedules that had been submitted by EJS. Included with this report is Exhibit B which is a compilation of extracted key milestone completion dates for the completion of foundations and footings for building areas A, B and C of the building as well as the completion of steel erection, roofing system and exterior stud framing system. All of the information contained in Exhibit B was taken from schedules submitted between 4/1/02 and 12/31/02 by EJS and re-formatted for ease of use. The items listed in Exhibit B as "Weather Tight Activity" are all the critical areas that need to be complete for the building to be weather tight. As illustrated by Exhibit B, EJS's schedule of April, 2002 initially had the entire building scheduled to be weather tight prior to December 6, 2002. This schedule slipped by 38 days by the time EJS submitted the July, 2002 update to the construction schedule. It is important to note that this 38 day delay was not illustrated on the July construction schedule as being attributable to the discovery of unsuitable soils which EJS reported finding on July 12, 2002 (see attached Exhibit C).

After EJS reported the discovery of unsuitable soils on July 12, 2002, and verification of such by Dore and Whittier, CCD#4R dated July 31, 2002 was issued directing EJS to remove the unsuitable soils on a unit cost basis as described in the contract documents. Both EJS and Chris Conway, the resident Construction Manager, recorded daily activities involving the excavation, removal and addition of structural fill to impacted areas in order to fairly determine the additional amount of contract time that EJS would be entitled to pursuant to their contract. All parties agreed that a time extension of 28 days would be incorporated into EJS's contract and as such, Change Order #3 dated 3 December 2002 (Exhibit D) was issued extending the substantial completion date of the building to 15 December 2003.

According to EJS's initial schedule the building should have been weather tight by December 6, 2002. If the only time extension issued on the contract was 28 days (per Change Order #3) and it is added to the initially scheduled weather tight date of 6 December 2002 that would mean the building should have been weather tight by January 3, 2003 based on EJS's schedule. Exhibit B illustrates that in September, 2002 prior to Change Order #3 and prior to the onset of normal inclement weather, the project was already 66 days behind schedule (weather tight by 2/10/03). EJS's construction schedule dated 31 December 2002 further delayed a weather tight building by extending this date to April 3, 2003 a schedule delay of 118 days. According to previous EJS schedules the building should have been weather tight on the same date that this updated schedule was issued by EJS.

As stated above, EJS's original schedule noted the building should have been weather tight once the 28 day extension (granted in Change Order #3) was taken into account by January 3, 2003. In fact, the building never achieved weather tightness prior to EJS defaulting on their contract on or about May 31, 2003. EJS was 118 days behind schedule on January 3, 2003. If we subtract the 28 day extension, this equates to 90 days or three months of delay that can not be attributed to soil conditions or to weather. It is my opinion that the three month delay was due to lack of manpower, equipment and improper sequencing of work early on in the project at the start of construction. Exhibit E illustrates

**Exhibit B**

Extracted Milestone Completion Dates from EJ. Sciaba  
Contracting Company Submitted Construction Schedules  
North Brookfield Jr./Sr. High School

**EJS Schedule w/ Data Date of 4/1/02**

	Building Section C	Building Section B	Building Section A	
Weather Tight Activity	<i>Completion dates per schedule</i>			
Completion of foundations and footings	6/27/2002	7/12/2002	7/19/2002	
Completion of steel erection	10/4/2002	11/4/2002	11/7/2002	Prior to issuance of Change Order #3
Completion of roofing system	10/25/2002	11/25/2002	11/29/2002	which extended the substantial completion date for
Completion of exterior stud system	11/1/2002	12/3/2002	12/6/2002	Phases 1-3 (Bldg.) to December 15, 2003 (28 additional days)

**EJS Schedule w/ Data Date of 7/15/02***Schedule delay of 38 days as compared to original schedule*

	Building Section C	Building Section B	Building Section A	
Weather Tight Activity	<i>Completion dates per schedule</i>			
Completion of foundations and footings	7/26/2002	8/22/2002	8/30/2002	
Completion of steel erection	9/19/2002	10/22/2002	11/12/2002	Prior to issuance of Change Order #3
Completion of roofing system	11/13/2002	12/17/2002	12/26/2002	which extended the substantial completion date for
Completion of exterior stud system	10/11/2002	12/5/2002	1/13/2003	Phases 1-3 (Bldg.) to December 15, 2003 (28 additional days)

**EJS Schedule w/ Data Date of 9/10/02***Schedule delay of 66 days as compared to original schedule*

	Building Section C	Building Section B	Building Section A	
Weather Tight Activity	<i>Completion dates per schedule</i>			
Completion of foundations and footings	9/30/2002	10/25/2002	10/24/2002	
Completion of steel erection	10/29/2002	11/2/2002	12/9/2002	Prior to issuance of Change Order #3
Completion of roofing system	12/26/2002	1/17/2003	1/20/2003	which extended the substantial completion date for
Completion of exterior stud system	11/19/2002	1/7/2003	2/10/2003	Phases 1-3 (Bldg.) to December 15, 2003 (28 additional days)

**EJS Schedule w/ Data Date of 12/31/02***Schedule delay of 118 days as compared to original schedule*

	Building Section C	Building Section B	Building Section A	
Weather Tight Activity	<i>Completion dates per schedule</i>			
Completion of foundations and footings	10/24/2002	10/23/2002	1/13/2003	
Completion of steel erection	12/21/2002	1/17/2003	2/3/2003	<b>AFTER</b> issuance of Change Order #3 dated (12/3/02)
Completion of roofing system	2/19/2003	3/12/2003	3/13/2003	which extended the substantial completion date for
Completion of exterior stud system	1/21/2003	2/28/2003	4/3/2003	Phases 1-3 (Bldg.) to December 15, 2003 (28 additional days)

## **EXHIBIT 2**

GH10464

## APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702

PAGE ONE OF PAGES

OWNER: DORE AND WHITTIER, INC.  
1795 Williston Road  
S. Burlington, VT 05403

PROJECT: NORTH BROOKFIELD JR /SR. HI APPLICATION NO: 00010  
PERIOD TO: 1/30/2003  
PROJECT NOS.: 238

Distribution to:

☐ OWNER  
☒ ARCHITECT

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FEB 13 2003

DORE &amp; WHITTIER, INC.

ARCHITECTS AND INTERIORS MANAGERS  
SOUTH BURLINGTON VERMONT

CONTRACTOR: E. J. SCIABA CONTRACTING CO. IN VIA ARCHITECT: DORE AND WHITTIER, INC.  
18 Wolcott Street 1795 Williston Road  
Roadville, MA 02137 S. Burlington, VT 05403

CONTRACT DATE

INDRACE FOR:

## CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the contract.  
Continuation Sheet, AIA Document G703, is attached.

ORIGINAL CONTRACT SUM \$13,222,000.00  
Net change by Change Orders \$150,973.38  
CONTRACT SUM TO DATE (Line 1 + 2) \$13,352,973.38  
TOTAL COMPLETED & STORED TO DATE \$4,313,662.70  
(Column 5 on G703) \$4,284,862.70  
RETAINAGE:

1. 5,000 % of Completed Work \$0.00  
(Column D + E on G703)  
2. 5,000 % of Stored Material \$0.00  
(Column F on G703)  
Total Retainage (Line 3a + 3b) \$214,243.14  
Total Retainage (Line 3a + 3b) \$214,243.14  
Total Retainage (Line 3a + 3b) \$214,243.14  
Total Retainage (Line 3a + 3b) \$214,243.14

GH10464

TOTAL EARNED LESS RETAINAGE \$4,070,619.56  
(Line 4 less Line 5 Total) \$4,070,619.56  
LESS PREVIOUS CERTIFICATES FOR PAYMENT \$3,883,097.07  
(Line 6 from prior Certificates) \$3,883,097.07  
CURRENT PAYMENT DUE \$187,522.49  
BALANCE TO FINISH, INCLUDING RETAINAGE \$0,254,803.82  
(Line 7 from Line 6) \$0,254,803.82

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$150,973.38	\$20,000.00
Total approved this month	\$0.00	\$0.00
TOTALS	\$150,973.38	\$20,000.00
CHANGES by Change Order	\$150,973.38	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this application for Payment is in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: E. J. SCIABA CONTRACTING

By: [Signature] Date: 2-1-03

State of: \_\_\_\_\_  
County of: \_\_\_\_\_  
Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

DAVID E. RUSSO  
Notary Public

My Commission Expires January 15, 2007

My Commission expires. [Signature]

## ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$187,522.49

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: Dore &amp; Whittier, Inc.

By: [Signature] Date: 2/17/03

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

GH10472

## CONTINUATION SHEET

AIA DOCUMENT G703

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AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.

In tabulations below, amounts are stated to the nearest dollar.

Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00010

APPLICATION DATE:

PERIOD TO: 1/30/2003

ARCHITECT'S PROJECT NO.: 238

A	B	C	D E		F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
05300.98	SUBTOTAL	\$101,100.00	\$83,850.00	\$0.00	\$0.00	\$83,850.00	82.938	\$17,250.00	\$4,192.50
05410.00	STUD SHEAR CONNECTORS								
05410.05	Stud Shear Connectors	\$18,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$18,000.00	\$0.00
05410.98	SUBTOTAL	\$18,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$18,000.00	\$0.00
05500.00	FSB - MISCELLANEOUS METALS								
05500.05	Miscellaneous Metals	\$239,000.00	\$17,385.00	\$0.00	\$0.00	\$17,385.00	7.274	\$221,615.00	\$869.25
05500.98	SUBTOTAL	\$239,000.00	\$17,385.00	\$0.00	\$0.00	\$17,385.00	7.274	\$221,615.00	\$869.25
06100.00	ROUGH CARPENTRY								
06100.05	Roof Blocking Material	\$18,000.00	\$5,040.00	\$900.00	\$0.00	\$5,940.00	33.000	\$12,060.00	\$297.00
06100.10	Roof Blocking Labor	\$6,000.00	\$0.00	\$1,000.00	\$0.00	\$1,000.00	16.667	\$5,000.00	\$50.00
06100.98	SUBTOTAL	\$24,000.00	\$5,040.00	\$1,900.00	\$0.00	\$6,940.00	28.917	\$17,060.00	\$347.00
06200.00	FINISH CARPENTRY AND ARCHITECTURAL								
06200.05	Furnish Woodwork	\$33,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$33,000.00	\$0.00
06200.10	Install Woodwork	\$8,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$8,000.00	\$0.00
06200.15	Install Doors & Hardware	\$18,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$18,000.00	\$0.00
06200.98	SUBTOTAL	\$59,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$59,000.00	\$0.00
07100.00	FSB - WATERPROOFING/DAMPROOFING								
07100.05	WATERPROOFING/DAMPROOFING	\$60,000.00	\$39,000.00	\$0.00	\$0.00	\$39,000.00	65.000	\$21,000.00	\$1,950.00
07100.98	SUBTOTAL	\$60,000.00	\$39,000.00	\$0.00	\$0.00	\$39,000.00	65.000	\$21,000.00	\$1,950.00
07200.00	BUILDING INSULATION								
07200.05	BUILDING INSULATION	\$10,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$10,000.00	\$0.00
07200.98	SUBTOTAL	\$10,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$10,000.00	\$0.00
07400.00	METAL SIDING AND SOFFITS								
07400.05	METAL SIDING AND SOFFITS	\$64,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$64,500.00	\$0.00
07400.98	SUBTOTAL	\$64,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$64,500.00	\$0.00
07500.00	FSB - ROOFING, FLASHING AND SHEET ME								

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## CONTINUATION SHEET

AIA DOCUMENT G703

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Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00010

APPLICATION DATE:

PERIOD TO: 1/30/2003

ARCHITECT'S PROJECT NO.: 238

ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%(G+C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
07500.05	ROOFING, FLASHING AND SHEET METAL	\$923,721.00	\$0.00	\$39,000.00	\$0.00	\$39,000.00	4.222	\$884,721.00	\$1,950.00
07500.98	SUBTOTAL	\$923,721.00	\$0.00	\$39,000.00	\$0.00	\$39,000.00	4.222	\$884,721.00	\$1,950.00
07900.00	FSB - JOINT SEALANTS								
07900.05	JOINT SEALANTS	\$39,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$39,200.00	\$0.00
07900.98	SUBTOTAL	\$39,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$39,200.00	\$0.00
08100.00	METAL DOORS AND FRAMES								
08100.05	METAL DOORS AND FRAMES	\$25,000.00	\$7,500.00	\$0.00	\$0.00	\$7,500.00	30.000	\$17,500.00	\$375.00
08100.98	SUBTOTAL	\$25,000.00	\$7,500.00	\$0.00	\$0.00	\$7,500.00	30.000	\$17,500.00	\$375.00
08200.00	WOOD DOORS								
08200.05	WOOD DOORS	\$19,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$19,000.00	\$0.00
08200.98	SUBTOTAL	\$19,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$19,000.00	\$0.00
08300.00	SPECIAL DOORS								
08300.05	SPECIAL DOORS	\$2,900.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,900.00	\$0.00
08300.98	SUBTOTAL	\$2,900.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,900.00	\$0.00
08331.00	COILING DOORS								
08331.05	COILING DOORS	\$3,800.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,800.00	\$0.00
08331.98	SUBTOTAL	\$3,800.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,800.00	\$0.00
08400.00	FSB - ALUMINUM ENTRANCES, DOORS, AND								
08400.05	ALUMINUM ENTRANCES, DOORS, AND WIN	\$298,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$298,200.00	\$0.00
08400.98	SUBTOTAL	\$298,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$298,200.00	\$0.00
08710.00	FINISH HARDWARE								
08710.05	FINISH HARDWARE	\$39,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$39,000.00	\$0.00
08710.98	SUBTOTAL	\$39,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$39,000.00	\$0.00
08800.00	FSB - GLASS AND GLAZING								
08800.05	GLASS AND GLAZING	\$19,496.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$19,496.00	\$0.00
08800.98	SUBTOTAL	\$19,496.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$19,496.00	\$0.00

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## CONTINUATION SHEET

AIA DOCUMENT G703

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APPLICATION NO.: 00010  
APPLICATION DATE:  
PERIOD TO: 1/30/2003  
ARCHITECT'S PROJECT NO.: 238

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	E WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G		H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE) RATE
			D FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G+C)		
10420.05	COMMERATIVE PLAQUE	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,000.00	\$0.00
10420.98	SUBTOTAL	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,000.00	\$0.00
10440.00	INTERIOR SIGNAGE								
10440.05	INTERIOR SIGNAGE	\$8,270.00	\$827.00	\$0.00	\$0.00	\$827.00	10.000	\$7,443.00	\$41.35
10440.93	SUBTOTAL	\$8,270.00	\$827.00	\$0.00	\$0.00	\$827.00	10.000	\$7,443.00	\$41.35
10500.00	LOCKERS								
10500.05	LOCKERS	\$59,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$59,000.00	\$0.00
10500.98	SUBTOTAL	\$59,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$59,000.00	\$0.00
10520.00	FIRE EXTINGUISHERS AND CABINETS								
10520.05	FIRE EXTINGUISHERS AND CABINETS	\$1,800.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,800.00	\$0.00
10520.98	SUBTOTAL	\$1,800.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,800.00	\$0.00
10617.00	OPERABLE PARTITIONS								
10617.05	OPERABLE PARTITIONS	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$15,000.00	\$0.00
10617.98	SUBTOTAL	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$15,000.00	\$0.00
10600.00	WASHROOM ACCESSORIES								
10800.05	WASHROOM ACCESSORIES	\$6,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$6,200.00	\$0.00
10800.98	SUBTOTAL	\$6,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$6,200.00	\$0.00
11131.00	CLASSROOM EQUIPMENT								
11131.05	CLASSROOM EQUIPMENT	\$3,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,700.00	\$0.00
11131.98	SUBTOTAL	\$3,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,700.00	\$0.00
11400.00	FSB - FOOD SERVICE EQUIPMENT								
11400.05	FOOD SERVICE EQUIPMENT	\$156,100.00	\$0.00	\$11,965.00	\$0.00	\$11,965.00	7.665	\$144,135.00	\$598.25
11400.98	SUBTOTAL	\$156,100.00	\$0.00	\$11,965.00	\$0.00	\$11,965.00	7.665	\$144,135.00	\$598.25
11486.00	BASKETBALL BACKBOARDS AND GOALS								
11486.05	BASKETBALL BACKBOARDS AND GOALS	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
11486.98	SUBTOTAL	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00



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AVENUE, N.W., WASHINGTON, D.C. 20006-5292

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## CONTINUATION SHEET

## AIA DOCUMENT G703

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AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.  
In tabulations below, amounts are stated to the nearest dollar.  
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00010  
APPLICATION DATE:  
PERIOD TO: 1/30/2003  
ARCHITECT'S PROJECT NO.: 238

A	B	C	D E		F	G		H	I	
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE	
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD						
11500.00	GYMNASIUM EQUIPMENT									
11500.05	Fold-up Divider Curtains	\$13,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$13,000.00	\$0.00	
11500.10	Floor Anchors	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,000.00	\$0.00	
11500.15	Wall Pads	\$8,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$8,000.00	\$0.00	
11500.98	SUBTOTAL	\$22,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$22,000.00	\$0.00	
11600.00	FSB - FIXED CASEWORK AND EQUIPMENT									
11600.05	FIXED CASEWORK AND EQUIPMENT	\$271,752.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$271,752.00	\$0.00	
11600.98	SUBTOTAL	\$271,752.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$271,752.00	\$0.00	
12675.00	FLOOR MAT									
12675.05	FLOOR MAT	\$1,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,500.00	\$0.00	
12675.98	SUBTOTAL	\$1,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$1,500.00	\$0.00	
12710.00	ASSEMBLY SEATING									
12710.05	ASSEMBLY SEATING	\$13,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$13,000.00	\$0.00	
12710.98	SUBTOTAL	\$13,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$13,000.00	\$0.00	
12760.00	TELESCOPING BLEACHERS									
12760.05	TELESCOPING BLEACHERS	\$28,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$28,000.00	\$0.00	
12760.98	SUBTOTAL	\$28,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$28,000.00	\$0.00	
14225.00	FSB - HYDRAULIC ELEVATOR	GH10477								
14225.05	HYDRAULIC ELEVATOR		\$50,000.00	\$25,000.00	\$0.00	\$0.00	\$25,000.00	50.000	\$25,000.00	\$1,250.00
14225.98	SUBTOTAL		\$50,000.00	\$25,000.00	\$0.00	\$0.00	\$25,000.00	50.000	\$25,000.00	\$1,250.00
15300.00	FSB - FIRE PROTECTION									
15300.05	FIRE PROTECTION	\$149,286.00	\$4,500.00	\$0.00	\$0.00	\$4,500.00	3.014	\$144,786.00	\$225.00	
15300.98	SUBTOTAL	\$149,266.00	\$4,500.00	\$0.00	\$0.00	\$4,500.00	3.014	\$144,786.00	\$225.00	
15400.00	FSB - PLUMBING									
15400.001	BUILDING A LOWER LEVEL	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00	
15400.002	UNDERGROUND WASTE	\$8,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$8,500.00	\$0.00	

GH10477



## CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 16 OF 17 PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.  
In tabulations below, amounts are stated to the nearest dollar.  
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00010

APPLICATION DATE:

PERIOD TO: 1/30/2003

ARCHITECT'S PROJECT NO.: 238

A	B	C	D E		F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
15400.160	KITCHEN	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
15400.161	UNDERGROUND WASTE	\$4,500.00	\$4,500.00	\$0.00	\$0.00	\$4,500.00	100.000	\$0.00	\$225.00
15400.162	LABOR-UNDERGROUND WASTE	\$4,500.00	\$1,575.00	\$0.00	\$0.00	\$1,575.00	35.000	\$2,925.00	\$78.75
15400.163	ABOVEGROUND WASTE AND VENT.	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.164	LABOR- ABOVEGROUND WASTE AND VEN	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
15400.165	WATER PIPING	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.166	LABOR- WATER PIPING	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
15400.167	GAS PIPING	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,500.00	\$0.00
15400.168	LABOR- GAS PIPING	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,500.00	\$0.00
15400.169	FIXTURES	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.170	LABOR- FIXTURES	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.171	INSULATION	\$3,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,500.00	\$0.00
15400.172	DRAINS AND CARRIERS	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
15400.173	LABOR- DRAINS AND CARRIERS	\$3,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,000.00	\$0.00
15400.174		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
15400.180	MISCELLANEOUS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
15400.181	COORDINATION DRAWINGS	\$7,900.00	\$6,715.00	\$0.00	\$0.00	\$6,715.00	85.000	\$1,185.00	\$335.75
15400.182	PERMITS/MOBILIZATION	\$5,000.00	\$5,000.00	\$0.00	\$0.00	\$5,000.00	100.000	\$0.00	\$250.00
15400.183	ASBUILTS/O & M	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,500.00	\$0.00
15400.900	SUBTOTAL	\$631,000.00	\$56,090.00	\$0.00	\$3,213.10	\$59,303.10	9.398	\$571,696.90	\$2,965.16
15500.000	FSB - HVAC								
15500.184	HVAC	\$1,579,000.00	\$23,620.00	\$0.00	\$0.00	\$23,620.00	1.496	\$1,555,380.00	\$1,181.00
15500.199	SUBTOTAL	\$1,579,000.00	\$23,620.00	\$0.00	\$0.00	\$23,620.00	1.496	\$1,555,380.00	\$1,181.00
16000.00	FSB - ELECTRICAL								
16000.05	ELECTRICAL	\$920,640.00	\$58,300.00	\$86,500.00	\$0.00	\$144,800.00	15.728	\$775,840.00	\$7,240.00
16000.98	SUBTOTAL	\$920,640.00	\$58,300.00	\$86,500.00	\$0.00	\$144,800.00	15.728	\$775,840.00	\$7,240.00
16740.00	FSB - COMMUNICATION CABLING AND TEC								
16740.05	COMMUNICATION CABLING AND TECHNOL	\$164,900.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$164,900.00	\$0.00
16740.98	SUBTOTAL	\$164,900.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$164,900.00	\$0.00
18000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
18000.01	CHANGE ORDERS								

GH10481



AIA DOCUMENT G703 • APPLICATION AND CERTIFICATE FOR PAYMENT • 1992 EDITION • AIA® • ©1992 • THE AMERICAN INSTITUTE OF ARCHITECTS, 1735 NEW YORK

AVENUE, N.W., WASHINGTON, D.C. 20005-5292

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G703-1992

CONTINUATION SHEET

AIA DOCUMENT G703

PAGE 17 OF 17 PAGES

AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.  
In tabulations below, amounts are stated to the nearest dollar.  
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00010

APPLICATION DATE:

PERIOD TO: 1/30/2003

ARCHITECT'S PROJECT NO.: 238

A	B	C	D	E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
18000.02	CO#001 (Credit-permit, computer)	(\$20,000.00)	(\$20,000.00)	\$0.00	\$0.00	(\$20,000.00)	100.000	\$0.00	(\$1,000.00)
18000.03	CO#003 (Unsuitable soil)	\$132,804.25	\$132,804.25	\$0.00	\$0.00	\$132,804.25	100.000	\$0.00	\$6,640.21
18000.04	CO#002 (COP#1-#4)	\$18,169.13	\$8,214.35	\$0.00	\$0.00	\$8,214.35	45.210	\$9,954.78	\$410.72
		\$13,352,973.38	\$4,087,470.60	<del>\$223,479.00</del>	\$3,213.10	<del>\$4,313,862.70</del>	32.31%	\$9,039,110.68	<del>\$215,693.14</del>

\$ 194,179.00

\$ 4,284,862.70

\$ 214,243.14

GH10482



## **EXHIBIT 3**

**CERTIFIED ORIGINAL  
LEGALINK BOSTON**

1

EXHIBITS 6-59 VOL. 1, PGS. 1-128

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS. M.R.C.P. Rule 30(b) & Rule 45

C.A. NO: 01-1630B

MANDATE ERECTORS & WELDING, L.T.D., )

Plaintiff, )

V. )

E.J. SCIABA CONTRACTING COMPANY, INC. And )

AMERICAN MANUFACTURERS MUTUAL INSURANCE COMPANY, )

V. )

NORTH AMERICAN SPECIALTY INSURANCE COMPANY, )

Defendant-in-Counterclaim )

\*\*\*\*\*

30(b)(6) Deposition of DORE & WHITTIER, INC.,

by its designee CHRISTOPHER CONWAY

Monday November 8, 2004, 9:31 a.m.

Holland & Knight

10 St. James Avenue

Boston, Massachusetts

\*\*\*\*\*

-----  
SHIRLEY E. BROWN, CSR, RPR

320 CONGRESS STREET - BOSTON, MASSACHUSETTS 02210

1 of pages numbered GH 04291 through 04309. Could you  
2 identify that sequence of pages in Exhibit 11?

3 MR. LeCLAIR: Objection.

4 A. I'm sorry. I don't understand the question.

5 Q. Have you got in your hand the sequence of  
6 pages I'm asking about?

7 A. Yes.

8 Q. Can you identify those -- that sequence of  
9 pages. What is it?

10 MR. LeCLAIR: Objection.

11 A. The first set 4291 through 4309, I cannot  
12 identify.

13 Q. Then let's go on to the second numbered  
14 sequence, GH 04 -- sorry. 01464 through -- let me  
15 strike that numbering again. Could you take a look  
16 at the pages that have you been numbered GH 10464  
17 through 10482, please.

18 A. I'm sorry, Deborah, what was the question  
19 again, please?

20 Q. Are you able to identify the pages in  
21 Exhibit 11 that have been numbered GH 10464 through  
22 GM 010482?

23 A. Yes.

24 Q. What are they?



1           A. E.J. Sciaba's payment application number 10,  
2 submitted to the architect at town for payment  
3 during the period of January '03.

4           Q. Can you identify the signatures on page  
5 10464 of Exhibit 11?

6           A. Upper signature, Scott Finneran. Middle  
7 figure, E.J. Sciaba's notary public. The lower  
8 signature, Albert Russell, Dore & Whittier chief  
9 architect.

10                   MS. GRIFFIN: In light of the witness's  
11 testimony, I'd like to suggest that we remove from  
12 Exhibit 11 the portion he could not identify and  
13 would just mark the part that he could. Is there  
14 any problem with that?

15                   MR. LeCLAIR: I don't have -- it's your  
16 deposition, you can do what you want with them. My  
17 objections are I don't know how he knows whether or  
18 not what these are. I don't think there was any --  
19 in any event, I don't have any problem with you  
20 separating them, if you like.

21                   MS. GRIFFIN: Let's go ahead and  
22 separate and apply a new Exhibit 11 sticker to the  
23 pages that the witness has been able to identify  
24 and --

1 THE WITNESS: Are you breaking this  
2 away?

3 MS. GRIFFIN: Yes, please. We just  
4 don't use the other set.

5 MR. LeCLAIR: It's still an exhibit,  
6 though? Correct? Leave it as an exhibit. I have a  
7 problem with you taking it out.

8 MS. GRIFFIN: That's fine. Why don't we  
9 pull it apart, and we'll mark as Exhibit 12 the part  
10 that the witness could identify.

11 MR. LeCLAIR: Perfect.

12 MS. GRIFFIN: So for the record,  
13 Exhibit 11 consists of pages GH 04291 through 04309.  
14 And Exhibit 12 will be pages GH 10464 through 10482.

15 (Exhibit 12 is marked for  
16 identification.)

17 Q. In the course of your work as resident  
18 construction --

19 A. Manager.

20 Q. -- manager. Thank you. Did the fully  
21 executed applications for payment come across your  
22 desk?

23 A. Yes.

24 Q. What did you do with them?

## **EXHIBIT 4**

E J SCIABA CONTRACTING CO., INC.

GENERAL PROJECT RELEASE

12-17-2002 Page 1  
System Date: 12-17-2002

Dear Bay State Elevator  
PO BOX 910 Voice Fax  
AGAWAM MA 01001-0910 (413)786-7000 (413)786-7277

Please review paid information NORTH BROOKFIELD JR-SR HS

## General Release

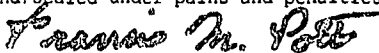
In consideration of the payment of the sum hereinafter set forth, the undersigned does acknowledge and agree that said payment shall constitute partial payment of all monies due it from E.J. Sciaba under the project hereinafter referred to; and in further consideration of such payment does hereby release E.J. Sciaba and any other persons or entities connected with or having to do with the construction of the NORTH BROOKFIELD JR-SR HS from any and all claims including, but not limited to, claims for labor, equipment rentals and consultant fees and/or materials, on said project or any other cause of action; and further release any claims against any funds whatsoever the source, payable or paid for and/or towards the said construction of said PROJECT.

The undersigned does further warrant and represent to E.J. Sciaba that it has paid all persons employed by it who supplied labor or materials or equipment in connection with the PROJECT; and does further certify that it has complied with all record keeping as required by law for compliance with Wage and Hour Laws, Rules, and Regulations under any State or Federal Laws, and does hereby indemnify and save harmless E.J. Sciaba its successors and assigns from and on account of any claims, demands, costs, damages, or applicable Wage and Hour Regulations and Requirements as specified in the Subcontract for the Project, or to pay any labor, equipment rentals, materialmen or suppliers or consultants employed by it on the PROJECT.

Below is a summary of your firms activity on this project.

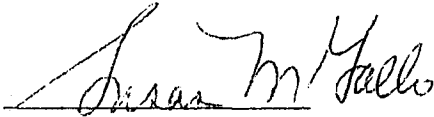
Invoice	Invoice Date	Payment Date	Description	Amount Paid
238 NORTH BROOKFIELD JR-SR HS				
1142 Bay State Elevator				
238-02	10-11-2002	11-04-2002	238 OCT 02 REQ	3,800.00

Signed and sealed under pains and penalties of perjury this 19 day of December 2002 2



Authorized representative of

Bay State Elevator



PLEASE RETURN TO:

E.J. SCIABA CONTRACTING CO. INC.  
ATTN: CONTRACT ADMINISTRATION  
P.O. BOX 191  
READVILLE, MA 02137

RECEIVED DEC 24 2002

## **EXHIBIT 5**

Received Time Mar. 7. 3:04PM

E.J. SCIABA CONTRACTING CO., INC.

GENERAL PROJECT RELEASE

02-26-2003 Page 1  
System Date: 02-26-2003

Re: GREENWOOD INDUSTRIES, INC.  
P.O. BOX 2800  
WORCESTER MA. 01613 2000 (508) 865-4010 (508) 865-1123

Please review paid information NORTH BROOKFIELD JR-SR MS

General Release

In consideration of the payment of the sum hereinafter set forth, the undersigned does acknowledge and agree that said payment shall constitute partial payment of all monies due it from E.J. Sciaba under the project hereinafter referred to; and in further consideration of such payment does hereby release E.J. Sciaba and any other persons or entities connected with or having to do with the construction of the NORTH BROOKFIELD JR-SR MS (from any and all claims including, but not limited to, claims for labor, equipment rentals and consultant fees and/or materials, on said project or any other cause of action; and further release any claims against any funds whatsoever the source, payable or paid for and/or towards the said construction of said PROJECT.

The undersigned does further warrant and represent to E.J. Sciaba that it has paid all persons employed by it who supplied labor or materials or equipment in connection with the PROJECT; and does further certify that it has complied with all record keeping as required by law for compliance with Wage and Hour Laws, rules, and regulations under any State or Federal Laws, and does hereby indemnify and save harmless E.J. Sciaba its successors and assigns from and on account of any claims, demands, costs, damages, or applicable Wage and Hour Regulations and Requirements as specified in the subcontract for the Project, or to pay any labor, equipment rentals, materials or suppliers or consultants employed by it on the PROJECT.

Below is a summary of your firms activity on this project.

Invoice	Invoice Date	Payment Date	Description	Amount Paid
238 NORTH BROOKFIELD JR-SR MS				
960 GREENWOOD INDUSTRIES, INC.				
1838	01-20-2003	02-28-2003	238 - Jan03 Req	
973640	03-08-2003	08-08-2003	238 UPCHARGE FOR CHANGE ORDER	719.25
238-01	12-26-2002	01-16-2003	238 - Dec 02 Req	24,250.00
Vendor Totals				24,969.25

Signed and sealed under pains and penalties of perjury this 3 day of Mar, 2003

Authorized representative of  
David S. Klein, President  
GREENWOOD INDUSTRIES, INC.

PLEASE RETURN TO:

E.J. SCIABA CONTRACTING CO. INC.  
ATTN: CONTRACT ADMINISTRATION  
P.O. BOX 191  
REARVILLE, MA 02117

P.07/09

SCIABA

MAR-07-2003 15:08

NBDW27043

E J SCIABA CONTRACTING CO., INC.

GENERAL PROJECT RELEASE

05-26-2003 Page 1  
System Date: 05-26-2003

Dear GREENWOOD INDUSTRIES, INC.

P.O. BOX 2800  
WORCESTERVoice Fax  
MA. 01613-2800 (508)865-4040 (508)865-1123

Please review paid information

NORTH BROOKFIELD JR-SR HS

## General Release

In consideration of the payment of the sum hereinafter set forth, the undersigned does acknowledge and agree that said payment shall constitute partial payment of all monies due it from E.J. Sciaba under the project hereinafter referred to; and in further consideration of such payment does hereby release E.J. Sciaba and any other persons or entities connected with or having to do with the construction of the NORTH BROOKFIELD JR-SR HS from any and all claims including, but not limited to, claims for labor, equipment rentals and consultant fees and/or materials, on said project or any other cause of action; and further release any claims against any funds whatsoever the source, payable or paid for and/or towards the said construction of said PROJECT.

The undersigned does further warrant and represent to E.J. Sciaba that it has paid all persons employed by it who supplied labor or materials or equipment in connection with the PROJECT; and does further certify that it has complied with all record keeping as required by law for compliance with Wage and Hour Laws, Rules, and Regulations under any State or Federal Laws, and does hereby indemnify and save harmless E.J. Sciaba its successors and assigns from and on account of any claims, demands, costs, damages, or applicable Wage and Hour Regulations and Requirements as specified in the Subcontract for the Project, or to pay any labor, equipment rentals, materialmen or suppliers or consultants employed by it on the PROJECT.

Below is a summary of your firms activity on this project.

Invoice	Invoice Date	Payment Date	Description	Amount Paid
238	NORTH BROOKFIELD JR-SR HS			
960	GREENWOOD INDUSTRIES, INC.			
18933	03-31-2003	04-14-2003	238 - P/E 03/31/03	100,700.49

Signed and sealed under oath and penalties of perjury this 27<sup>th</sup> day of MARCH, 200 3

Authorized representative of

GREENWOOD INDUSTRIES, INC.

PLEASE RETURN TO:

E.J. SCIABA CONTRACTING CO. INC.  
ATTN: CONTRACT ADMINISTRATION  
P.O. BOX 191  
READVILLE, MA 02137



## **EXHIBIT 6**

## APPLICATION AND CERTIFICATE FOR PAYMENT AIA DOCUMENT G702

PAGE ONE OF PAGES

TO OWNER: DORE AND WHITTIER, INC.

1795 Williston Road  
S. Burlington, VT 05403TOWN OF NORTH BROOKFIELD  
10 NEWSCHOOL DRIVE  
NORTH BROOKFIELD, MA 01535

PROJECT: NORTH BROOKFIELD JR./SR. HI APPLICATION NO: 00011

PERIOD TO: 2/28/2003

PROJECT NOS.: 238

Distribution to:

- ☐ OWNER  
☒ ARCHITECT  
☐ CONTRACTOR  
☐

FROM CONTRACTOR: E. J. SCIABA CONTRACTING CORP. ARCHITECT: DORE AND WHITTIER, INC.  
 18 Wolcott Street  
 Readville, MA 02137  
 1795 Williston Road  
 S. Burlington, VT 05403

CONTRACT DATE:

CONTRACT FOR:

**RECEIVED**  
 MAR 05 2003  
 DORE & WHITTIER, INC.  
 ARCHITECTS • PROJECT MANAGERS  
 SOUTH BURLINGTON, VERMONT

## CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the contract.  
 Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM ..... \$13,222,000.00
2. Net change by Change Orders ..... ~~\$130,973.38~~ \$127,623.57
3. CONTRACT SUM TO DATE (Line 1 ± 2) ..... ~~\$13,352,973.38~~ \$13,349,623.57
4. TOTAL COMPLETED & STORED TO DATE ..... ~~\$4,663,906.70~~  
 (Column G on G703) \$4,657,556.91
5. RETAINAGE:
- a. 5.000 % of Completed Work ..... \$0.00  
 (Columns D + E on G703)
- b. 5.000 % of Stored Material ..... \$0.00  
 (Columns F on G703)
- Total Retainage (Line 5a + 5b or  
 Total in Columns I on G703) ..... ~~\$233,195.34~~
6. TOTAL EARNED LESS RETAINAGE ..... ~~\$4,430,711.36~~ \$4,424,677.06  
 (Line 4 less Line 5 Total)
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT ..... \$4,070,619.56  
 (Line 6 from prior Certificate)
8. CURRENT PAYMENT DUE ..... ~~\$360,091.80~~ \$354,059.50
9. BALANCE TO FINISH, INCLUDING RETAINAGE ..... \$8,922,262.02  
 (Line 3 less Line 6)

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$150,973.38	<del>\$20,000.00</del>
Total approved this Month	\$0.00	<del>\$3349.77</del> \$0.00
TOTALS	\$150,973.38	<del>\$20,000.00</del> \$23,349.77
NET CHANGES by Change Order	\$127,623.57	<del>\$130,973.38</del>

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: E. J. SCIABA CONTRACTING

By: [Signature] Date: 3-3-03  
 2/28/2003

State of:

County of:

Subscribed and sworn to before

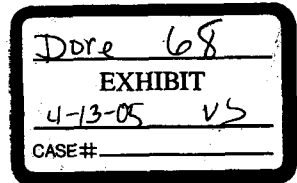
me this

day of

Notary Public:

My Commission expires:

DAVID E. [Signature]  
 Notary Public  
 My Commission Expires



## ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED ..... \$354,059.50  
~~\$360,091.80~~

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that are changed to conform to the amount certified.)

ARCHITECT: Dore &amp; Whittier, Inc.

By: [Signature] Date: 3/13/03  
 2/28/2003

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

NBDW25528

# CONTINUATION SHEET

Case 4:03-cv-40266-TSH

Document 63-2  
AIA DOCUMENT G703

Filed 01/25/2006

Page 25 of 28

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AIA Document G702, APPLICATION AND CERTIFICATE FOR PAYMENT, containing Contractor's signed Certification, is attached.  
In tabulations below, amounts are stated to the nearest dollar.  
Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO.: 00011  
APPLICATION DATE:  
PERIOD TO: 2/28/2003  
ARCHITECT'S PROJECT NO.: 238

ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
00005	Mobilization & Internal Office Setup	\$123,722.00	\$123,722.00	\$0.00	\$0.00	\$123,722.00	100.000	\$0.00	\$6,186.10
00010	General Contractor Bond	\$247,444.00	\$247,444.00	\$0.00	\$0.00	\$247,444.00	100.000	\$0.00	\$12,372.20
00015	Subcontractor Bonds	\$118,000.00	\$118,000.00	\$0.00	\$0.00	\$118,000.00	100.000	\$0.00	\$5,900.00
00020	GLPD Insurance	\$26,000.00	\$26,000.00	\$0.00	\$0.00	\$26,000.00	100.000	\$0.00	\$1,300.00
00025	Builders Risk	\$32,000.00	\$32,000.00	\$0.00	\$0.00	\$32,000.00	100.000	\$0.00	\$1,600.00
00030	Baseline CPM Schedule	\$10,000.00	\$10,000.00	\$0.00	\$0.00	\$10,000.00	100.000	\$0.00	\$500.00
00035	Schedule of Values	\$5,000.00	\$5,000.00	\$0.00	\$0.00	\$5,000.00	100.000	\$0.00	\$250.00
00040	Construction Sign	\$3,500.00	\$3,500.00	\$0.00	\$0.00	\$3,500.00	100.000	\$0.00	\$175.00
00045	Construction Fence	\$24,000.00	\$24,000.00	\$0.00	\$0.00	\$24,000.00	100.000	\$0.00	\$1,200.00
00050	SUBTOTAL	\$589,666.00	\$589,666.00	\$0.00	\$0.00	\$589,666.00	100.000	\$0.00	\$29,483.30
00100	GENERAL CONDITIONS								
00105	Project Staffing	\$452,853.00	\$251,580.00	\$25,158.00	\$0.00	\$276,738.00	61.110	\$176,115.00	\$13,836.90
00110	Field Offices	\$25,000.00	\$13,900.00	\$1,390.00	\$0.00	\$15,290.00	61.160	\$9,710.00	\$784.50
00115	Temporary Telephones	\$10,000.00	\$4,995.00	\$555.00	\$0.00	\$5,550.00	55.500	\$4,450.00	\$277.50
00120	Temporary Toilets	\$5,000.00	\$2,800.00	\$280.00	\$0.00	\$3,080.00	61.600	\$1,920.00	\$154.00
00125	Electrical Consumption	\$16,000.00	\$7,992.00	\$888.00	\$0.00	\$8,880.00	55.500	\$7,120.00	\$444.00
00130	Storage Trailers	\$3,500.00	\$1,755.00	\$195.00	\$0.00	\$1,950.00	55.714	\$1,550.00	\$97.50
00135	Tarps, Blankets & Temp. Enclosure	\$5,000.00	\$4,000.00	\$0.00	\$0.00	\$4,000.00	80.000	\$1,000.00	\$200.00
00140	Interim Cleaning	\$8,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$8,000.00	\$0.00
00145	Project Photos	\$3,000.00	\$1,494.00	\$166.00	\$0.00	\$1,660.00	55.333	\$1,340.00	\$83.00
00150	CPM Schedule Updates	\$16,000.00	\$5,000.00	<del>\$3,000.00</del>	\$0.00	<del>\$8,000.00</del>	50.000	<del>\$8,000.00</del>	<del>\$400.00</del>
00155	Registered Survey	\$15,000.00	\$14,000.00	\$0.00	\$0.00	\$14,000.00	93.333	\$1,000.00	\$700.00
00160	Layout Stakes & Supplies	\$10,000.00	\$8,500.00	\$0.00	\$0.00	\$8,500.00	85.000	\$1,500.00	\$425.00
00165	G.C. As-Builts & Closeout Documents	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
00170	Temporary Water	\$4,000.00	\$2,886.00	\$222.00	\$0.00	\$3,108.00	77.700	\$892.00	\$155.40
00175	Dumpsters	\$18,000.00	\$6,300.00	\$1,500.00	\$0.00	\$7,800.00	43.333	\$10,200.00	\$390.00
00180	Final Cleaning	\$10,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$10,000.00	\$0.00
00185	Building Permit	\$3,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,000.00	\$0.00
00299	SUBTOTAL	\$609,353.00	\$325,202.00	\$33,354.00	\$0.00	\$358,556.00	58.842	\$250,797.00	\$17,927.80
02060.00	BUILDING DEMOLITION								
02060.05	Demo Existing School	\$67,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$67,500.00	\$0.00
02060.98	SUBTOTAL	\$67,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$67,500.00	\$0.00

NBDW25535



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AVENUE, N.W., WASHINGTON, D.C. 20006-5292

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G703-1992

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APPLICATION NO.: 00011  
APPLICATION DATE:  
PERIOD TO: 2/28/2003  
ARCHITECT'S PROJECT NO.: 238

A	B	C	D		E	F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%	(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD						
10420.05	COMMERATIVE PLAQUE	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$1,000.00	\$0.00
10420.98	SUBTOTAL	\$1,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$1,000.00	\$0.00
10440.00	INTERIOR SIGNAGE									
10440.05	INTERIOR SIGNAGE	\$8,270.00	\$827.00	\$0.00	\$0.00	\$827.00	10.000		\$7,443.00	\$41.35
10440.98	SUBTOTAL	\$8,270.00	\$827.00	\$0.00	\$0.00	\$827.00	10.000		\$7,443.00	\$41.35
10500.00	LOCKERS									
10500.05	LOCKERS	\$59,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$59,000.00	\$0.00
10500.98	SUBTOTAL	\$59,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$59,000.00	\$0.00
10520.00	FIRE EXTINGUISHERS AND CABINETS									
10520.05	FIRE EXTINGUISHERS AND CABINETS	\$1,800.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$1,800.00	\$0.00
10520.98	SUBTOTAL	\$1,800.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$1,800.00	\$0.00
10617.00	OPERABLE PARTITIONS									
10617.05	OPERABLE PARTITIONS	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$15,000.00	\$0.00
10617.98	SUBTOTAL	\$15,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$15,000.00	\$0.00
10800.00	WASHROOM ACCESSORIES									
10800.05	WASHROOM ACCESSORIES	\$6,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$6,200.00	\$0.00
10800.98	SUBTOTAL	\$6,200.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$6,200.00	\$0.00
11131.00	CLASSROOM EQUIPMENT									
11131.05	CLASSROOM EQUIPMENT	\$3,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$3,700.00	\$0.00
11131.98	SUBTOTAL	\$3,700.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$3,700.00	\$0.00
11400.00	FSB - FOOD SERVICE EQUIPMENT									
11400.05	FOOD SERVICE EQUIPMENT	\$156,100.00	\$11,965.00	\$5,440.00	\$0.00	\$17,405.00	11.150		\$138,695.00	\$870.25
11400.98	SUBTOTAL	\$156,100.00	\$11,965.00	\$5,440.00	\$0.00	\$17,405.00	11.150		\$138,695.00	\$870.25
11486.00	BASKETBALL BACKBOARDS AND GOALS									
11486.05	BASKETBALL BACKBOARDS AND GOALS	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$5,000.00	\$0.00
11486.98	SUBTOTAL	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0		\$5,000.00	\$0.00

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# CONTINUATION SHEET

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APPLICATION NO.: 00011  
APPLICATION DATE:  
PERIOD TO: 2/28/2003  
ARCHITECT'S PROJECT NO.: 238

A	B	C	D E		F	G		H	I
ITEM NO.	DESCRIPTION OF WORK	SCHEDULED VALUE	WORK COMPLETED		MATERIALS PRESENTLY STORED (NOT IN D OR E)	TOTAL COMPLETED AND STORED TO DATE (D+E+F)	%(G÷C)	BALANCE TO FINISH (C - G)	RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD					
15400.160	KITCHEN	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
15400.161	UNDERGROUND WASTE	\$4,500.00	\$4,500.00	\$0.00	\$0.00	\$4,500.00	100.000	\$0.00	\$225.00
15400.162	LABOR-UNDERGROUND WASTE	\$4,500.00	\$1,575.00	\$0.00	\$0.00	\$1,575.00	35.000	\$2,925.00	\$78.75
15400.163	ABOVEGROUND WASTE AND VENT.	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.164	LABOR- ABOVEGROUND WASTE AND VENT	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
15400.165	WATER PIPING	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.166	LABOR- WATER PIPING	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
15400.167	GAS PIPING	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,500.00	\$0.00
15400.168	LABOR- GAS PIPING	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,500.00	\$0.00
15400.169	FIXTURES	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.170	LABOR- FIXTURES	\$4,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$4,500.00	\$0.00
15400.171	INSULATION	\$3,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,500.00	\$0.00
15400.172	DRAINS AND CARRIERS	\$5,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$5,000.00	\$0.00
15400.173	LABOR- DRAINS AND CARRIERS	\$3,000.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$3,000.00	\$0.00
15400.174		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
15400.180	MISCELLANEOUS	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
15400.181	COORDINATION DRAWINGS	\$7,900.00	\$6,715.00	\$0.00	\$0.00	\$6,715.00	85.000	\$1,185.00	\$335.75
15400.182	PERMITS/MOBILIZATION	\$5,000.00	\$5,000.00	\$0.00	\$0.00	\$5,000.00	100.000	\$0.00	\$250.00
15400.183	ASBUILTS/O & M	\$2,500.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$2,500.00	\$0.00
15400.900	SUBTOTAL	\$631,000.00	\$59,303.10	\$2,775.00	\$0.00	\$62,078.10	9.838	\$568,921.90	\$3,103.91
15500.000	FSB - HVAC								
15500.184	HVAC	\$1,579,000.00	\$23,620.00	\$24,000.00	\$0.00	\$47,620.00	3.016	\$1,531,380.00	\$2,381.00
15500.199	SUBTOTAL	\$1,579,000.00	\$23,620.00	\$24,000.00	\$0.00	\$47,620.00	3.016	\$1,531,380.00	\$2,381.00
16000.00	FSB - ELECTRICAL								
16000.05	ELECTRICAL	\$920,640.00	\$144,800.00	\$101,875.00	\$0.00	\$246,675.00	26.794	\$673,965.00	\$12,333.75
16000.98	SUBTOTAL	\$920,640.00	\$144,800.00	\$101,875.00	\$0.00	\$246,675.00	26.794	\$673,965.00	\$12,333.75
16740.00	FSB - COMMUNICATION CABLING AND TEC								
16740.05	COMMUNICATION CABLING AND TECHNOL	\$164,900.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$164,900.00	\$0.00
16740.98	SUBTOTAL	\$164,900.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$164,900.00	\$0.00
18000.00		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00
18000.01	CHANGE ORDERS								

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## CONTINUATION SHEET

AIA DOCUMENT G703

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APPLICATION DATE:  
PERIOD TO: 2/28/2003  
ARCHITECT'S PROJECT NO.: 238

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	E WORK COMPLETED		F MATERIALS PRESENTLY STORED (NOT IN D OR E)	G		H BALANCE TO FINISH (C - G)	I RETAINAGE (IF VARIABLE) RATE
			FROM PREVIOUS APPLICATION (D + E)	THIS PERIOD		TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G ÷ C)		
18000.02	CO#001 (Credit-permit, computer)	(\$20,000.00)	(\$20,000.00)	\$0.00	\$0.00	(\$20,000.00)	100.000	\$0.00	(\$1,000.00)
18000.03	CO#003 (Unsuitable soil)	\$132,804.25	\$132,804.25	\$0.00	\$0.00	\$132,804.25	100.000	\$0.00	\$6,640.21
18000.04	CO#002 (COP#1-#4)	\$18,169.12	\$8,214.35	\$0.00	\$0.00	\$8,214.35	45.210	\$9,954.78	\$410.72
	<del>CCD# 5</del>	<del>(3347.77)</del>	<del>(2210.43)</del>	<del>(3347.77)</del>		<del>(3347.77)</del>			<del>(167.49)</del>
		\$13,352,973.38	\$4,284,862.70	\$379,044.00	\$0.00	\$4,663,906.70	34.93%	\$8,689,066.68	\$238,195.34

✓ \$13,349,623.59

-3000  
\$372,694.21

-3,000  
\$4,657,556.91

-150  
\$232,877.85

NBDW/25551

